



City of Santa Barbara California

STAFF HEARING OFFICER STAFF REPORT

REPORT DATE: September 3, 2008
AGENDA DATE: September 10, 2008
PROJECT ADDRESS: 417 Shasta Lane (MST2008-00378)
TO: Susan Reardon, Senior Planner, Staff Hearing Officer
FROM: Planning Division, (805) 564-5470
 Renee Brooke, AICP, Zoning & Enforcement Supervisor *RLB*
 Roxanne Milazzo, Associate Planner *Rox*

I. PROJECT DESCRIPTION

The 3,484 square foot project site is currently developed with a single family residence and several "as-built" structures including 350 square feet of the residence, an attached front trellis, rear deck, and a detached accessory structure. The proposed project involves removal of the trellis and detached accessory structure and a request to permit the "as-built" floor area and attached rear deck. The discretionary application required for this project is a Modification to permit legalization of floor area within the required six-foot (6') interior setback (SBMC §28.18.060).

Date Application Accepted: August 5, 2008 Date Action Required: November 5, 2008

II. SITE INFORMATION AND PROJECT STATISTICS

A. SITE INFORMATION

Applicant:	Travis Wilson	Property Owner:	Same
Parcel Number:	027-122-011	Lot Area:	3,484 sf
General Plan:	12 Units Per Acre	Zoning:	R-2
Existing Use:	One-Family Residence	Topography:	Flat
Adjacent Land Uses:			
	North - One-Family Residence		East - One-Family Residence
	South - One-Family Residence		West - One-Family Residence

B. PROJECT STATISTICS

	Existing	Proposed
Living Area	730 sf	350 sf "as-built" addition
Garage	None Existing	None Proposed
Accessory Space	352 sf "as-built" to be removed	None Proposed

III. LOT AREA COVERAGE

Lot Area: 3,484 sf
Building: 1,264 sf; 36%
Hardscape: 800 sf; 23%
Landscape: 1,420 sf; 41%

IV. DISCUSSION

The existing residence, which was built in 1948, was originally part of a larger lot with frontage on E. Islay Street. This residence, like the majority of the construction on Shasta Lane, is non-conforming to its front and interior setbacks. Prior to purchasing the property, the current owners reviewed a Zoning Information Report prepared by Staff. That report identified numerous violations on site, including over-height vegetation, as well as a front trellis, detached accessory structure, and bar-b-que which were all built without benefit of permits. The new owners purchased the property knowing that they would be responsible for abatement of those violations. While processing plans for removal of the illegal installations, Staff uncovered records that revealed that the living room area that constitutes 1/3 of the dwelling's floor area, was also illegal, and that a 50 square-foot portion of it was located within the required interior setback. The property owner's are seeking a Modification to legalize the room addition in its entirety.

Staff discourages use of the Modification process for illegal construction, and particularly when it results in habitable space within a setback. However, the portion within the setback does not contain any window openings, is single story like the existing residence, forms a uniform improvement to the remainder of the residence with an existing 2' setback, is screened to the immediate neighbor by the existing vegetation, and is located 20' away from the neighboring habitable space.

V. **RECOMMENDATION/FINDING**

Staff recommends that the Staff Hearing Officer approve the project, making the findings that the Modification is necessary to secure an appropriate improvement of maintaining the existing floor area that allows for a uniform improvement to the legally existing portions of the residence on an extremely small lot in a non-conforming neighborhood, and meets the purpose and intent of the Ordinance by not resulting in impacts to adjacent residential uses. Said approval is subject to the condition that all outstanding zoning/building violations be a part of any plan submitted in conjunction with the Modification.

Exhibits:

- A. Site Plan (under separate cover)
- B. Applicant's letter dated August 5, 2008
- C. Neighbor's Letter of Support dated August 5, 2008
- D. Aerial photograph of 417 Shasta Lane.

Contact/Case Planner: Roxanne Milazzo, Associate Planner
(rmilazzo@SantaBarbaraCA.gov)
630 Garden Street, Santa Barbara, CA 93101
Phone: (805)564-5470

Travis Wilson and Maritza Mejia
417 Shasta Lane
Santa Barbara, CA 93101
(805) 452-7830

August 5, 2008

Staff Hearing Officer
City of Santa Barbara
P.O. Box 1990
Santa Barbara, CA 93102-1990

Re: Modification request for 417 Shasta Lane; Assessor's Parcel #027-122-011; R-2

Dear Staff Hearing Officer:

On November 8, 2007, we obtained a Zoning Inspection Report (ZIR) from the City of Santa Barbara. Subsequent to receipt and review of the ZIR, we closed escrow on the property and were willing and able to fulfill our obligation to correct the violations identified in the report. We have since attempted to obtain permits to abate all violations noted in the ZIR. In the process of applying for these permits, the City informed us that that the living-room of the home (which constitutes 1/3 of the living area) was constructed without proper permits and has a portion that encroaches into the interior side-yard setback. We are requesting an as-built permit for the living-room and modification for the portion that extends into the side-yard setback. This will avoid a significant and unforeseen financial hardship.

1. STATEMENT REGARDING THE EXISTING SITUATION

There is an existing house (approx. 1,080 sq. ft.), a detached accessory building (approx. 350 sq. ft.) and previously permitted tandem parking on the property. The accessory building was constructed without proper permits and we have included the removal of the structure in our application. Corrections to all zoning and building violations noted in the ZIR are included in our application. The proposal is to obtain an as-built permit for the un-permitted living-room area (approx. 25 ft. x 13 ft.), which will require a modification for the easterly portion encroaching into the side-yard setback (approx. 3 ft. by 13 ft). This un-permitted living-room was not noted in the ZIR at the time we purchased the home. We are not seeking to expand our home in any way – we are only seeking a modification to legalize the structure in its existing location. We believed this significant portion of the home was legal at the time of purchase.

2. MODIFICATION REQUESTED AND JUSTIFICATION FOR THE REQUEST

The modification requested will allow the existing living-room to encroach three (3) ft. into the required five (5) ft. interior easterly side-yard setback. We believe the modification is justifiable due to the following:

- a. We relied upon the ZIR to fulfill its stated purpose to “identify zoning and building violations [and] inform the buyer as to the nature of the violations as part of the State’s full disclosure laws”. While we acknowledge that this is a good faith effort by the City, the ZIR failed to identify approximately 360 sq. ft. of living space. It is our opinion that the ZIR was not adequately researched by City staff and therefore cannot be considered a good faith effort. Had the violation been identified, the purchase price would have been reduced or we may not have purchased the property at all.

- b. The wall in question is in-line with the original legal structure (a uniform improvement). It has a solid-wall construction with no open impact to neighbors. The area does not encourage congregation nor impose upon the privacy of our neighbors. The construction was completed by a previous owner many decades ago.
- c. We conform to the intent and purpose of the City's ordinances and note that our neighbor's residence is over 20 ft. from the wall in question. The area separating the two homes is open yard space. Please see attached photographs and letter of support from our neighbor, Cynthia Birch.
- d. Although the normal required side-yard setback is 6 ft., Roxanne Milazzo informed us that per section 28.18.065(C), "where an existing building that has been constructed within five (5) feet from an interior property line, a ground level addition to the building may be made or constructed so long as the addition is also constructed no less than five (5) feet from the same interior property line". The intent and purpose of the ordinance is to maintain 11 ft. between residential structures – of which we have almost twice that amount.
- e. The as-built addition does not exceed 50% of the legally permitted living area in 1980, as required. Permitted living area = approx. 730 sq. ft. As-built addition = approx. 360 sq. ft.
- f. In March 2008, Danny Kato and Larry Cassidy performed a site visit to review the living-room construction and permit application. Per email correspondence from Danny Kato, "Larry Cassidy did not think it would be too big a deal to get that room permitted, i.e. he thought that it either met, or was very close to meeting code". Please see attached emails.
- g. While we understand that staff cannot "support" the modification for fear of setting precedence, we believe that our situation is truly the exception. A call in favor of our proposal would not encourage future modifications of this nature because our case is unique for the following reasons: there was a significant error in the ZIR, the structure was not built by us, the addition is a uniform improvement, and the privacy of our neighbors is maintained. In addition, the purpose and intent of the zoning ordinance is fulfilled.

3. STATEMENT REGARDING THE BENEFITS OF THE REQUEST

The benefits of the modification are as follows:

- a. A modification would legalize the living space we believed was permitted at the time of purchase and rectifies the error in the ZIR.
- b. Allows owners to abate all violations noted in the ZIR - a process which has lasted over ten months and has consumed countless hours of time and resources from City staff, homeowners, and site planners.
- c. Eliminates the need for additional construction and the disturbance associated with it.
- d. Avoids significant and unanticipated construction costs (estimated to be at least \$40,000).
- e. Avoids loss of 39 sq. ft. of living space (at purchase price of \$700/ sq. ft. = \$27,300).

Although we understand that financial limitations may not affect your decision with regards to the modification, we feel it is important to mention that there will be a significant impact on our ability to keep the home if it is not obtained. We budgeted sufficient funds to remedy the violations noted in the ZIR, however, we do not have funds for any additional or unanticipated construction. The housing market in Santa Barbara has declined since our purchase and as a result Countrywide has frozen our line of credit. We are unable to obtain additional financing based upon current market conditions and our salaries. Thank you for your compassion, your time, and your understanding with regards to this matter.

Respectfully submitted,

Travis Wilson and Maritza Mejia

**417 Shasta Lane
Letter of support from
neighbor at 421 Shasta Lane**

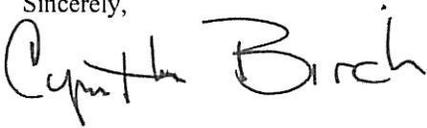
August 5, 2008

To Whom It May Concern,

My name is Cynthia Birch and I own the property next door to 417 Shasta Lane. My official address on my deed is 420 E. Islay but my house actually sits on the back of the property off of Shasta Lane. There is a wall in question at 417 Shasta Lane that apparently sits within a setback on the eastside of the property. As far as concerns of any impact on my privacy there is no problem. I have lived here for 7 years and the wall was there before I acquired my property. Upon measuring the distance from that wall to my closest outside wall it is a distance of at least 20 feet. In between there is a hedge and other trees that create a natural buffer zone. Because of the foliage there are no problems with any visual of the building and certainly no problem with noise.

What might impact my privacy is having construction to tear down and rebuild a wall that is fine where it is. I appreciate your time and please call me if you need any further information.

Sincerely,

A handwritten signature in black ink that reads "Cynthia Birch". The signature is written in a cursive style with a large initial "C" and "B".

Cynthia Birch
805 687-3738



417 Shasta Lane

SITE -

clouded area in setbk

hatched area outside of setbk